

# Notice of Allowability

Application No.

09/966,851

Examiner

Jeffrey C. Panos

Applicant(s)

MUIR, DAVID HUGH

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3713

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to June 16, 2005.
2. ☒ The allowed claim(s) is/are 1-18 and 30-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☒ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

XUAN M. THAI  
SUPERVISORY PATENT EXAMINER

### DETAILED ACTION

Claims 1-18 and 30-39 are allowable. The restriction requirement between inventions Species I and II, as set forth in the Office action mailed on March 30, 2004, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 19-21, which required all the limitations of an allowable claim, previously withdrawn from consideration as a result of the restriction requirement, were canceled by applicant in the reply filed on June 16, 2005. The canceled, nonelected claim(s) may be reinstated by applicant if submitted in a timely filed amendment in reply to this action. Upon entry of the amendment, such amended claim(s) will be examined for patentability under 37 CFR 1.104.

In view of the withdrawal of the restriction requirement as set forth above, applicant(s) are advised that if any claim(s) depending from or including all the limitations of an allowable claim is presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance:

Muir et al. (US Patent No. 6,644,664) discloses a gaming machine (Fig 1) with a display unit capable of generating video images (Fig 1, reference 20) with a user input device (Fig 1, reference 24.1) and a value input device (Fig, reference 24.2). The machine has a controller coupled to the display unit, both input devices, and comprises a processor and a memory (Fig 2). The controller receives player selected game options from the input device (Column 3). The input is the number of lines to be bet (Column 2, lines 46-51). The player can select the paylines from a number of available paylines. However, it is not clear that the reference teaches that the available paylines can be indicative of either a first game evaluation or a second game evaluation because the user does not select whether symbol(s) is/are three-dimensional or kept two-dimensional. Moreover, Muir et al. teaches only three-dimensional blocks. The reference only teaches that the paylines can be made through the top faces of the elements or can be arranged in a zigzag manner in order to complete a payline using the side faces. This is clearly not as the Applicant's invention shows. Further, Muir et al. teaches a controller that allows a person to place a wager (column 3, lines 4-10) and is programmed to cause a three-dimensional video image to be generated on the display unit wherein the three-dimensional video image represents a casino game (Fig 3). The controller does perform win evaluations based on the paylines, which has a payout based on the outcomes, but does not disclose separate evaluations such as a first win evaluation and a second win evaluation with three-dimensional and two-


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dimensional symbols, respectively. The user's selections involve inputs to select how many paylines and how many credits to be bet. Since the selections do not involve changing the symbols' appearance, then there is no disclosure for any transparent overlay in order to make the selection of which specific symbols the user would like to select to change to three-dimensional. Claims 1-18 and 30-39 are therefore allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Jeffrey C. Panos

June 2, 2006

  
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TC3760